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REPORT
No. 683

ETHEL CRISTETA BERNER

JULY 2, 1951.—Committed to the Committee of the Whole House and ordered to be printed

Mr. GRAHAM, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3895]

The Committee on the Judiciary to whom was referred the bill (H. R. 3895) for the relief of Ethel Cristeta Berner, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows: Strike out all after the enacting clause and insert in lieu thereof the following:

That for the purposes of the immigration and naturalization laws Ethel Cristeta Berner shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee and head tax. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

PURPOSE OF THE BILL

The purpose of this bill, as amended, is to grant the status of permanent residence in the United States to a native of Germany who was born in the Philippine Islands. The bill also provides for the payment of the required visa fee and head tax and for the appropriate quota deduction.

GENERAL INFORMATION

The pertinent facts in this case are contained in a letter from the Deputy Attorney General, dated August 25, 1950, to the chairman of the Committee on the Judiciary, regarding a bill (H. R. 7251), pending in the Eighty-first Congress for the relief of the same person. The said letter reads as follows:

August 25, 1950.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 7251) for the relief of Ethel Cristeta Berner.

The bill would provide that Ethel Cristeta Berner shall be considered to have been lawfully admitted to the United States for permanent residence as of September 21, 1945. It would further direct the Secretary of State to instruct the quota-control officer to deduct one number from the appropriate immigration quota.

The files of the Immigration and Naturalization Service of this Department disclose that Miss Berner was born in Manila, Philippine Islands, on December 31, 1929. She was admitted at the port of San Francisco, Calif., on September 21, 1945, for a period of 1 year under section 3 (2) of the Immigration Act of 1924. A subsequent application for an extension of her temporary stay was denied. However, on April 2, 1947, her status was changed to that of a nonquota student under section 4 (e) of the Immigration Act of 1924. She was later granted an extension to April 20, 1949, on the condition that she obtain a Philippine passport valid for at least 60 days beyond such extension. She apparently has been unable to obtain such passport.

It appears from the record that the alien has in her possession a birth certificate issued by the Manila Health Department in which it is stated that she is a German national although born in Manila, Philippine Islands. It appears that Miss Berner's father, Frederick William Berner, was born in Germany. She testified that he had been naturalized as a Philippine citizen after her birth but that all evidence of his naturalization has been destroyed, and further that the Philippine authorities had refused to recognize that she is a Philippine citizen by reason of having been born in that country, since she was unable to furnish proof that her father was naturalized as a Philippine citizen. Miss Berner's mother was also born in the Philippine Islands but was a United States citizen through her father, Bert Julian Reid, who is a United States citizen and retired civil-service employee. Miss Berner's mother died in November 1932, and her father was killed in the Philippines in 1945.

Miss Berner testified that she is presently residing with her grandparents, Mr. and Mrs. Bert Reid, in San Pedro, Calif., and is being supported by them. Apparently, she has lived with them most of her life. She has graduated from the San Pedro High School and is presently attending Compton College, where she is pursuing a laboratory technician course. She testified that she last entered the United States as an evacuee from the Philippine Islands having been placed on the ship by the American authorities, her visa having been waived. In addition to her grandfather and grandmother, she has several aunts and uncles residing in San Pedro, Calif. Her only relative in the Philippine Islands is a sister of her grandmother's, whose address is unknown.

The quota for the Philippines to which Miss Berner is chargeable is over-subscribed and an immigration visa is not readily obtainable. Therefore, in the absence of general or special legislation she will be unable to remain in the United States as a permanent resident. Whether in this case, the general provisions of the immigration law should be waived presents a question of legislative policy concerning which this Department prefers not to make any recommendation.

If the measure should receive favorable consideration by the committee, it is suggested that it be amended by deleting the "." in line 8 and inserting ", upon the payment of the required head tax and visa fee."

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Mr. King, the author of this bill, appeared before a subcommittee of the Committee on the Judiciary and urged the enactment of his measure, testifying as follows:

STATEMENT OF CONGRESSMAN CECIL R. KING BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY ON H. R. 3895 FOR RELIEF OF ETHEL CRISTETA BERNER

H. R. 3895 for the relief of Ethel Cristeta Berner is identical with H. R. 7251 introduced in the Eighty-first Congress. The bill provides that Miss Berner be considered to have been lawfully admitted to the United States for permanent

residence as of September 21, 1945, since she was admitted at the port of San Francisco, Calif., on that date for a period of 1 year under section 3 (2) of the Immigration Act of 1924.

However, on April 2, 1947, her status was changed to that of a nonquota student under section 4 (e) of the Immigration Act of 1924. She was later granted an extension to April 20, 1949, on the condition that she obtain a Philippine passport valid for at least 60 days beyond such extension. She apparently has been unable to secure such a passport.

It appears from the report of the Department of Justice that Miss Berner was born in Manila, December 31, 1929, and has in her possession a birth certificate issued by the Manila Health Department in which it is stated that she is a German national although born in Manila, Philippine Islands. Miss Berner's mother, now deceased, was also born in the Philippine Islands and was a United States citizen through her father, Bert Julian Reid, who is a United States citizen and retired civil-service employee. Miss Berner's father, Frederick William Berner, now deceased, was born in Germany. According to Miss Berner, he had been naturalized as a Philippine citizen after her birth, but all evidence of his naturalization has been destroyed due to the war and the Philippine authorities refuse to recognize her as a Philippine citizen as she is unable to furnish proof that her father was naturalized as a Philippine citizen.

Miss Berner's mother died in November 1932 and her father was killed in the Philippines in 1945.

It appears that Miss Berner's grandfather, Bert Julian Reid, is now her only living relative and that upon the death of her father he immediately took her under his care and into his family and became her sole support. He is a citizen of the United States, born in Yale, Mich., on January 31, 1877, and was a civil employee of the United States Army, Quartermaster Corps, stationed at Fort William McKinley, Philippine Islands, on June 27, 1917, and thereafter was so employed until he was retired on January 31, 1939.

The United States Government repatriated Mr. Bert Julian Reid, the grandfather, and family, and he arrived in San Francisco on September 21, 1945, together with his wife, children, and his grandchild, Ethel Cristeta Berner, who was enrolled in the San Pedro High School at San Pedro, Calif., was graduated therefrom and enrolled in Compton College at Compton, Calif.

Mr. and Mrs. Bert Julian Reid have the greatest love and affection for their granddaughter, Ethel Cristeta Berner, and sincerely wish her to permanently remain with them in their home in San Pedro, Calif. They are well able to continue to support and educate Miss Berner who is a good student and will make a useful citizen of the United States which she desires to become.

The Department of Justice does not oppose enactment of the bill.

In addition, the committee files contain the following affidavit in support of this legislation:

AFFIDAVIT OF BURT JULIAN REID IN SUPPORT OF H. R. 7251

COUNTY OF LOS ANGELES,

State of California, ss:

Burt Julian Reid, being first duly sworn, deposes and says:

That he is a citizen of the United States, born in Yale, Mich., on January 31, 1877; that he was a civil employee of the United States Army Quartermaster Corps, stationed at Fort William McKinley, P. I., on June 27, 1917, and thereafter was so employed until he was retired on January 31, 1939.

That he is married, and that Margaret Isabella Reid was his daughter; that she married Frederick William Berner; that there was a grandchild, Ethel Cristeta Berner, born December 31, 1929, at Manila. That affiant's said daughter died in November of 1932. That Frederick William Berner died in the war at Manila on March 12, 1945, leaving his daughter, Ethel Cristeta Berner, an orphan at age 16, without any means whatsoever.

That affiant, the grandfather of Ethel Cristeta Berner, was then her only living relative; that he immediately took her under his care and into his family and became her support.

That the United States Government repatriated affiant and his family, and he arrived in San Francisco on September 21, 1945, together with his wife, children and his said grandchild, Ethel Cristeta Berner. That Acting Secretary of State Grew waived the passport and visa requirements for Ethel Cristeta Berner, and she was duly admitted to the United States, under paragraph 2, section 3 of the Immigration Act of 1924, for 1 year.

That affiant's said granddaughter enrolled in the San Pedro High School and went steadily to school there. That on April 2, 1947, upon petition duly made, her status was changed to that of a nonquota student, and two extensions granted.

That Ethel Cristeta Berner graduated from San Pedro High School, and enrolled in Compton College, at Compton, Calif., where she is now studying.

That the last extension given to Ethel Cristeta Berner expired on April 20, 1949; that she has made application for another extension but the same has not been received as of this date.

That affiant and his wife have the greatest love and affection for their granddaughter, and with all their heart they wish her to permanently remain with them in their home in San Pedro, Calif. That affiant is well able to continue to support and educate his granddaughter. That she is a good student at college and will make a useful citizen of the United States, which she desires to become.

Wherefore, affiant prays that the Congress of the United States enact bill H. R. 7251 for the relief of Ethel Cristeta Berner.

BURT JULIAN REID.

Subscribed and sworn to before me this 15th day of February 1950.

[SEAL]

HERBERT R. LANDE,

Notary Public in and for Said County and State.

Upon consideration of all the facts in this case, the committee is of the opinion that H. R. 3895, as amended, should be enacted and it accordingly recommends that the bill do pass.

